

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

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WRIT PETITION NO : 26600 of 2003

Between:

Arjala Ratnam W/o.A.Rama Murthy R/o.H.No.48-6-30, Srinagar,
Visakhapatnam, Visakhapatnam District,

..... PETITIONER

AND

1 The Vice-Chairman and Managing Director, A.P.S.R.T.C., Musheerabad,
Hyderabad.

2 The Divisional Manager, APSRTC, Dwaraka Nagar, Visakhapatnam,
Visakhapatnam District

3 The Assistant Traffic manager, DBS Complex, APSRTC Visakhapatnam,
Visakhapatnam district.

4. D. Venkatesh, s/o. late Ram Murthy, 31254/2, Marapakala Street, Allipuram,
Visakhapatnam.

(R.4 is impleaded vide Court Order dt. 22-7-04 in WPMP No.4808 of 2004)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ o mandamus declaring the proceedings No.P2/122(20) 2001-ATM, dt 9.12.2003 issued by the 3rd respondent herein as illegal, arbitrary and contrary to circular No.83/2003 dt.29.10.2003 issued by the 1st respondent herein.

Counsel for the Petitioner: MR.V.MALLIK

**Counsel for the Respondents.: Mr Y.Vivekananda Swamy(SC FOR APSRTC)
R1to R3.**

Mr.P.Sri Raghuram for R4.

The Court made the following :

ORAL ORDER:

Herd both sides and at their request the main writ petition itself is taken up for disposal.

The short question, which is involved in this writ petition, is as to whether the petitioner who is only the licensee is entitled to seek any enforcement of any circulars issued by the respondent-Corporation in regard to renewal or extension of the lease period.

The case of the petitioner, in brief, is that he has been running a STD booth in open space No.9 by the side of entrance to the main canteen, DBS complex, APSRTC, w.e.f. 28-12-2001 and the licence period expires by 27-12-2003 itself. Since the period was coming to an end by 27-12-2003, the petitioner sought to place reliance on a circular dated 29-10-2003 and sought the extension of period which was refused by the respondents herein as per the orders dated 9-12-2003 which according to the petitioner is wholly illegal and unsustainable. Hence, the writ

petition.

In support of the petitioner's contention, reliance was sought to be placed on the judgments reported in *USHA ENTERPRISES V., KHADI AND VILLAGE INDUSTRIES* and also in *S. SUDHAKARA GUPTA v., APSRTC, HYD.*. In the earlier decision cited above, it is a case of totally in a different context and does not, in fact, pertain to the nature of licences which are being granted by the respondents. Whereas, the Division Bench of this Court in the latter decision i.e., in 1998(3) ALD 116(DB), has taken the consideration of the legality and effect of the circulars issued by the respondent corporation and their enforceability and it was ultimately held that the said circular do not create any right or the same cannot be enforced.

Having considered the submissions made and also on perusal of the material and especially in view of the authoritative pronouncement of a Division Bench of this Court directly dealing in respect of the circulars which are sought to be relied on by the petitioner, I do not find any sustainability in the claim as sought to be made by the petitioner for the enforcement of the circulars. Hence, there is no merit in the writ petition.

Accordingly the writ petition is dismissed. No costs.

B. PRAKASH RAO, J

Dt. 23-08-2004

KVRK

To

- 1 The Vice-Chairman and Managing Director, A.P.S.R.T.C., Musheerabad, Hyderabad.
- 2 The Divisional Manager, APSRTC, Dwaraka Nagar, Visakhapatnam,

Visakhapatnam District

3 The Assistant Traffic manager, DBS Complex, APSRTC Visakhapatnam,
Visakhapatnam district.

4. Two CD copies.